

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By **VICE CHAIR DEE L. BROWN**, on January 12, 2005  
at 8:00 A.M., in Room 455 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Veronica Small-Eastman, Vice Chair (D)  
Rep. Joan Andersen (R)  
Rep. Dee L. Brown, Vice Chair (R)  
Rep. Mary Caferro (D)  
Rep. Sue Dickenson (D)  
Rep. Emelie Eaton (D)  
Rep. Robin Hamilton (D)  
Rep. Gordon R. Hendrick (R)  
Rep. Teresa K. Henry (D)  
Rep. Hal Jacobson (D)  
Rep. William J. Jones (R)  
Rep. Gary MacLaren (R)  
Rep. Bruce Malcolm (R)  
Rep. Bernie Olson (R)

**Members Excused:** Rep. Larry Jent, Chairman (D)  
Rep. Alan Olson (R)

**Members Absent:** None.

**Staff Present:** Sheri Heffelfinger, Legislative Branch  
Marion Mood, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing & Date Posted: HB 27, 1/5/2005; HB 17, 1/5/2005;  
HB 114, 1/5/2005  
Executive Action: HB 27

**HEARING ON HB 27****Opening Statement by Sponsor:**

**REP. MARK NOENNIG, HD 46, BILLINGS**, opened the hearing on HB 27 which he brought forth at the request of the Montana Historical Society. HB 27 allows for a biennial rather than quarterly audit of the Moss Mansion and other state-owned historic sites or buildings. Current statute requires a quarterly audit of the Moss Mansion in Billings, but since the year 2000, no state funds have been provided to the Historical Society, and the local preservation society has had to raise the necessary funds. Budgets cuts have also reduced the number of staff to perform the audits, thus the changes proposed in HB 27 include the change from a full audit to a review. **REP. NOENNIG** stressed that the Historical Society could still request that a full audit be done from time to time.

**Proponents' Testimony:**

**Arnie Olsen, Director, Montana Historical Society**, submitted written testimony and a letter written by the leadership of the Moss Mansion, lauding the efforts which culminated in the creation of HB 27.

[EXHIBIT\(sth08a01\)](#)

[EXHIBIT\(sth08a02\)](#)

**Amy Sullivan, Executive Director, Montana History Foundation**, rose in support of HB 27 and elaborated that the Moss Mansion Endowment was under the auspices of the History Foundation which goes through yearly audits; this was one more mechanism to make sure things were done properly.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**REP. DEE BROWN, HD 3, HUNGRY HORSE**, wondered if this bill was the result of a discussion in the interim audit committee. **REP. NOENNIG** deferred the question to **Arnie Olsen** who confirmed that it was.

**REP. SUE DICKENSON, HD 25, GREAT FALLS**, asked the sponsor if the Moss Mansion was the only facility in the state that would be affected by this bill. **REP. NOENNIG** replied the mansion was the only remaining site affected by HB 27.

**Closing by Sponsor:**

REP. NOENNIG closed.

**EXECUTIVE ACTION ON HB 27**

**Motion:** REP. JACOBSON moved that HB 27 DO PASS.

**Discussion:**

REP. HAL JACOBSON, HD 82, HELENA, confirmed that this issue had indeed been discussed in the interim audit committee.

**Vote:** Motion carried unanimously on a voice vote, with REPS. A. OLSON and JENT voting aye by proxy.

**Motion/Vote:** REP. ANDERSEN moved that HB 27 BE PLACED ON THE CONSENT CALENDAR. Motion carried unanimously, with REPS. A. OLSON and JENT voting aye by proxy.

**HEARING ON HB 17**

**Opening Statement by Sponsor:**

REP. ROSALIE (ROSIE) BUZZAS, HD 93, MISSOULA, opened the hearing on HB 17, submitted on behalf of the Montana Historical Society. She explained that by amending current statute, HB 17 allows for all donations, monetary gifts and legacies received by the Society to be used for general operating expenditures unless otherwise specified by the donor. Current law requires that all non-designated funds of more than \$500 must be placed into a trust account for the acquisition of art and/or artifacts. When this account was established, there was no other way to fund the acquisition of new pieces. This account is no longer necessary since a new acquisitions account funded by private funds was established in 1999; case in point is the Rendezvous of Western Art whose net proceeds are shared equally by the Helena Civic Center and the Montana Historical Society. It has generated about \$30,000 per year for acquisitions, and the funds are managed by the Montana History Foundation. Budget cuts during the past two legislative sessions have made it necessary for the Historical Society to be able to redirect private donations to areas of critical need, and this bill provides them with the flexibility to meet the needs as they arise.

**Proponents:**

**Arnie Olsen, Director, Montana Historical Society,** submitted written testimony.  
**EXHIBIT(sth08a03)**

He added that the Society generates their own funds wherever possible; about 25% of the budget is generated through the sale or rental of objects; federal grants are made available from time to time as well. The fund currently consists of approximately \$118,000 which generated roughly \$6,000 in interest last year. With passage of this bill, private donations, unless otherwise specified, can go to the purchase of new computers or micro-film for the library or wherever the need exists.

**Amy Sullivan, Executive Director, Montana History Foundation,** described that her foundation applies private donations (not designated for a specific purpose) to the category "where most needed." She advised that it was very difficult to raise money for infrastructure and operating needs and lauded the provision in HB 17.

**Opponents:** None

**Questions from Committee Members and Responses:**

**REP. BERNIE OLSON, HD 10, LAKESIDE,** wondered if the Montana Historical Society had a built-in appropriation; he felt it was inefficient to operate a state agency in this manner. **Mr. Olsen** stated that the Society had made a request for additional funding but that they would be happy to receive whatever funds the subcommittee will give them during their budget meeting the following day. He added the financial outlook was better than it had been during the last session.

**REP. BRUCE MALCOLM, HD 61, EMIGRANT,** asked if the wording "Money be used" should not be replaced by "Money may be used." **Mr. Olsen** voiced that this was not a problem for him as long as it allowed the Society the needed flexibility, and referred the question to the sponsor. **REP. BUZZAS** felt that the term, "operation," included everything else which made a change in the wording unnecessary. **REP. MALCOLM** was not satisfied, saying his suggestion made the intent more clear.

**REP. BUZZAS** asked Sheri Heffelfinger for her comments. **Ms. Heffelfinger** explained that the title of the bill reflects the two sections' contents: Section 1 is the authority of the Board; the amendment on Page 2, Lines 3 and 4, strikes the sentence, "Anything above \$500 which is not designated must be put into the

acquisitions trust fund." This takes out the trust fund requirement but it does not require that the funds go to operations. Section 2 looks at the use of the acquisition trust fund money and stipulates revenue earned must be placed in the acquisition trust. She added this makes it clear that revenue earned by the trust has to go to the trust; the rest of the money has to go to the general operating account where there are no stipulations other than that it cannot go to the trust fund. If that flexibility is desired, the title as well as the language in Section 1 need to be amended.

**REP. JACOBSON** interjected that a bill's title does not get codified. **Ms. Heffelfinger** agreed but maintained it was important that the title reflect what the bill does.

**REP. D. BROWN** felt that the bill had huge ramifications and asked if it could open the door to raising money for upcoming projects without the oversight of the Legislature. **Mr. Olsen** charged that it did not; even if they received a donation, they would have to get the authority for spending it.

**REP. D. BROWN** inquired as to who set the priority of need for the Society. **Mr. Olsen** advised that it was the responsibility of the Board of Trustees, made up of 15 trustees appointed by the governor.

**Closing by Sponsor:**

**REP. BUZZAS** closed.

**HEARING ON HB 114**

**Opening Statement by Sponsor:**

**REP. JOHN WITT, HD 28, CARTER**, opened the hearing on HB 114, advising that the 1997 Legislature had passed a historic right-of-way bill allowing individuals to acquire a permanent road easement across state lands so that they could secure access to their property. A fee was established on a per-acre rate, depending on the classification of the land. In response to the Enabling Act and the Montana Constitution which require payment of fair market value for trust lands (including historic right-of-ways) the 2001 Legislature amended the statute so it would be in compliance; it also included a provision allowing counties to secure right-of-ways across state lands for county roads which had been in place prior to 1997.

The DNRC began outreach efforts to inform counties of the process and benefits of these changes prior to termination in 2006.

Counties resisted purchasing right-of-ways for roads that had been in existence for so long and sought other remedies. MACo conducted extensive research, concluding that no other remedy existed for the counties to receive the easements at no cost and ordered counties to identify all applicable county road crossings and bordering state lands. This turned into a huge undertaking and caused a significant delay in completing the process. As counties began to realize the magnitude and potential cost (which could be as high as several \$100,000), a means to help mitigate the fiscal impact was sought. With a termination date in 2006 to get the applications deeded, it became apparent that completing the process would create a significant hardship for those counties. This bill, by extending the termination date to October 1, 2016, allows counties to spread out payments over several years because applications can be staggered over a longer period of time.

**Proponents' Testimony:**

**Gordon Morris, Director, Montana Association of Counties (MACo)**, lauded the DNRC's cooperation in working with the counties. He emphasized that Montana's Constitution requires that state lands have to generate revenue for the benefit of public education, thus counties have to pay for easements across state lands. He suggested it behooved the counties to form partnerships with utility companies and individuals whose property may have a cloud on their title by virtue of not having a proper easement. Extending the termination date enables counties to conduct their inventory and phase in the acquisition of the right-of-ways.

**Gary Wiens, Montana Electric Cooperatives' Association (MECA)**, submitted written testimony.  
**EXHIBIT(sth08a04)**

**Ron Ostberg, Montana Telecommunications Systems (MITS)**, echoed previous testimony.

**Geoff Feiss, General Manager, Montana Telecommunications Association**, also rose in support of HB 114. He agreed that in many cases, utilities have existed for years or decades without having filed the proper paper work for right-of ways which is the concept of this historic easement legislation. He also supports the extension of the deadline to give his members time to identify and bring into compliance those properties which have been missed heretofore.

**Stuart Doggett, Montana Land Title Association**, stated that his association supports the concept of HB 114 and the extension of the deadline.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**REP. WILLIAM JONES, HD 9, BIGFORK,** asked whether the acquisition fees were a one-time fee which **Mr. Morris** confirmed. **REP. JONES** wondered if future property taxes were involved. **Mr. Morris** explained that this merely involves the acquisition of a legal easement, not any type of property.

**REP. BERNIE OLSON, HD 10, LAKESIDE,** was curious whether everyone with a potential easement issue had been identified so far, and what the consequences would be should someone miss the deadline. **REP. WITT** replied that he believed everyone had been identified; he shared the same concern about missed deadlines, saying he would like to see it extended further. **REP. OLSON** was concerned there could be people who were still unaware of the requirement and deadline. **REP. WITT** claimed that if it was a county road that traversed state lands, it would have been identified; if it was a private road, he was not sure and deferred to Mr. Morris.

**Mr. Morris** explained an easement application could be filed at any time after the need to do so was discovered. The statute eases certain requirements for acquiring access: it precludes a legal survey and eliminates having to settle for potential damages with the state. Finally, this law exempts historic right-of-ways from the Montana Environmental Protection Act (MEPA). Once the law terminates, individuals would not be barred from acquiring access but would have to meet all of the legal requirements such as surveys as well as to comply with MEPA.

**Closing by Sponsor:**

**REP. WITT** closed.

**ADJOURNMENT**

Adjournment: 8:54 A.M.

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REP. LARRY JENT, Chairman

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MARION MOOD, Secretary

LJ/MM

Additional Exhibits:

**EXHIBIT ([sth08aad0.PDF](#))**